UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/843,766	04/30/2001	Jacob McGuire	033048-064	9191

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EXAMINER
CHANKONG, DOHM

ART UNIT	PAPER NUMBER
2152	

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Office Action Summary	Application No.	Applicant(s)
	09/843,766	MCGUIRE, JACOB
	Examiner	**Art Unit**
	Dohm Chankong	2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _22 February 2005_.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-14_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-14_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1>   Applicant's remarks have been received. Claims 1-14 are presented for further

examination.

Response to Arguments

2>   Applicant's arguments with respect to claims 1-14 have been considered but are moot

in view of the new ground(s) of rejection.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine
grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or
improper timewise extension of the "right to exclude" granted by a patent and to prevent
possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010
(Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686
F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA
1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).
A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to
overcome an actual or provisional rejection based on a nonstatutory double patenting ground
provided the conflicting application or patent is shown to be commonly owned with this
application. See 37 CFR 1.130(b).
Effective January 1, 1994, a registered attorney or agent of record may sign a terminal
disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37
CFR 3.73(b).

3>   Claim 1-14 ['766 application] are provisionally rejected under the judicially created

doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of

copending Application No. 09/843815 ['815 application]. Although the conflicting claims are

not identical, they are not patentably distinct from each other because claims 1-14 pertain to

the same subject matter as the claims of the '815 application with only minor and obvious

variations. Claim 1 is shown merely as an exemplary example. Both claim 1 of the '766

application and claims 1, 9 and 11 of the '815 application pertain to a system for the automatic

configuration of a plurality of different network devices. Specifically, both systems utilize a

library of generic commands to be translated within an interface to be compatible with a

specific device. Both claim 1 of the '766 application and claim 9 mentioned in the '815

application pertain exactly to a memory, database and interface that have the same

functionality and design [i.e. memory to store template and commands, database storing

network addresses and interface for templates].

    Therefore, claim 1 of the '766 application is merely an obvious variation of claims 1, 9

and 11 of the '815 application and therefore, claim 1 of the '766 application is invalid.

    This is a provisional obviousness-type double patenting rejection because the

conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

    The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art
> are such that the subject matter as a whole would have been obvious at the time the invention was made to a
> person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

4>   Claims 1 are rejected under 35 U.S.C § 103(a) as being unpatentable over Ballard et al,

U.S Patent No. 4.937.825 ["Ballard"], in view of Anand et al, U.S Patent No. 6.748.436

["Anand"].

5>   As to claim 1, Ballard discloses a system for automatically deploying a plurality of

network devices, comprising:

a database storing a record which indicates the respective network address of each

specific device for which a given device is to be configured [Figure 1 «item 4» | column 2

«lines 18-48»]; and

an interface responsive to a command and to configure a given device for retrieving

the stored record associated with said given device, substituting the network addresses in the

retrieved record for the variables in said template, and issuing commands to manage the

given device in accordance with said retrieved record and said template [column 2 «lines 18-

48» | column 4 «lines 50-68»].

Ballard discloses commands for configuring each of a plurality of devices of a given

type, wherein each command that refers to a particular device contains a variable as the

identification of the device [column 12 «line 66» to column 13 «line 6» | column 16 «line 56»

to column 17 «line 2» | column 17 «lines 20-35» : "parameters" and "name list"], but does not

explicitly disclose a template that contains said commands. Ballard also does not explicitly

disclose configuring the devices.

6>   Anand discloses a template that contains a sequence of commands [column 8 «lines

28-39» : "library of commands"], and also discloses utilizing the commands to configure the

devices [column 5 «lines 1-3»]. As is well known in the art, a library (template), such as the

one illustrated in Anand's system provides a centralized manner for storing the sequence of

commands used to communicate with the devices; therefore, it would have been obvious to

one of ordinary skill in the art to incorporate a library into Ballard's system to consolidate

the commands and enable easier access to the commands, as is well known in the art [see

Anand, column 1 «line 67» to column 2 «line 3»].

Furthermore, it would have been obvious to one ordinary skill in the art to modify

Ballard's communication system to be utilized for configuration of network devices as taught

by Anand to increase the functionality of Ballard's system by enabling Ballard to be able to

configure the devices in addition to the ability of diagnosing the devices.

7>   As to claim 2, Ballard does disclose network addresses [column 9 «lines 47-52»], but

does not explicitly disclose IP addresses. IP addresses are ubiquitous in the art. It would have

been obvious to one of ordinary skill in the art to have implemented Ballard's network device

addresses as IP addresses as they are the accepted and expected addresses used in networks.

8>   Claims 3 and 4 are rejected under 35 U.S.C § 103(a) as being unpatentable over Ballard

and Anand, in view of Merchant et al, U.S Patent Pub. 2002|0128815 ["Merchant"].

9>   As to claim 3, Ballard does not explicitly disclose a plurality of templates.

10>   Merchant discloses a plurality of templates stored in memory, each corresponding to a

different respective type of device [0044, 0045]. It would have been obvious to one of

ordinary skill in the art to incorporate Merchant's plurality of templates into Ballard and

Anand, to enable Ballard's generic commands to be translated into device-specific

commands, insuring that the translated commands are compatible with the network device.

11>   Ballard discloses a database [Figure 1 «item 4»] but does not explicitly disclose storing

the templates.

12>   Merchant discloses storing the plurality of templates in a database [0044 : "memory"].

It would have been obvious to one of ordinary skill in the art to follow Merchant's teachings

and store the plurality of templates into Ballard's database with the configuration

information of the devices. Databases are ubiquitous in the art and would enable Ballard

quick access to the required translation information.

13>   As to claim 5, Ballard discloses the system of claim 1 wherein said interface issues said

commands in a format generic to a plurality of different types of devices, and further

including a library containing converters for converting said generic commands into device-

specific commands to be applied to individual network devices [column 2 «lines 17-38» |

column 9 «lines 39-46» | column 12 «line 66» to column 13 «line 11» | column 16 «line 56» to

column 17 «line 7» ("between separate service systems")].

14>   As to claim 6, Ballard discloses the system of claim 5 wherein said converters transmit

each of said device-specific commands in accordance with a transmission protocol

corresponding to the individual devices, respectively [column 9 «lines 39-46»].

15>   As to claims 8-13, as they claims to a method that outline the functionality of the system of claims 1-6, respectively, they do not teach or further define over the claimed limitations. Therefore, claims 8-13 are rejected for the same reasons set forth for claims 1-6.

16>   Claims 7 and 14 are rejected under 35 U.S.C 103(a) as being unpatentable over Ballard and Anand, in further view of McNeely et al, U.S Patent Application Publication US 2002/0162059 A1 ["McNeely"].

17>   As to claim 7, Ballard discloses the system substantially as claimed in claim 1. Ballard does not specifically disclose that one of said transmission protocols comprises Telnet.

18>   McNeely teaches a system for automatic configuration of a plurality of network devices wherein communication with said network devices is done in accordance with a Telnet transmission protocol [abstract | paragraph 65 | paragraph 84]. It would have been obvious to a person of ordinary skill in the art include telnet in Ballard's system because doing so would increase the number of devices that with which Ballard's interface could communicate. One would have been motivated to do this to allow Ballard's system to include network devices that could be accessed by remote terminal access.

19>   Claim 14 is a method that claims the steps performed by the system of claim 7. Therefore, claim 14 is rejected for the same reasons as set forth for claim 7.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is (571)272-3942. The examiner can normally be reached on 8:30AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571)272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DC

Dung C. Dinh
Primary Examiner